

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 56

**Introduced by Assembly Member Quirk
(Principal coauthor: Assembly Member Campos)**

December 2, 2014

An act to add Section 6254.31 to the Government Code, and to add Title 14 (commencing with Section 14350) to Part 4 of the Penal Code, relating to unmanned aircraft systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 56, as amended, Quirk. Unmanned aircraft systems.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the national airspace system by September 30, 2015. Existing federal law requires the Administrator of the Federal Aviation Administration to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015.

This bill would generally prohibit ~~public law enforcement~~ agencies from using unmanned aircraft systems, or contracting for the use of unmanned aircraft systems, as defined, ~~with certain exceptions applicable to law enforcement agencies, subject to approval by the legislative body having management and control of the law enforcement agency and other specified conditions, and in certain other cases,~~

~~including when the use or operation of the unmanned aircraft system achieves the core mission of the agency and the purpose is unrelated to the gathering of criminal intelligence, as defined.~~ *except as provided by the bill's provisions. The bill would authorize a law enforcement agency to use an unmanned aircraft system if the law enforcement agency complies with specified requirements, including, among others, that prior to the use of an unmanned aircraft system, the law enforcement agency develops and makes available to the public a policy on the use of an unmanned aircraft system, as provided, and that the law enforcement agency complies with protections against unreasonable searches guaranteed by the United States Constitution and the California Constitution, federal law applicable to the use of an unmanned aircraft system by an agency, state and local law applicable to any agency's use of surveillance technology that can be attached to an unmanned aircraft system, and the unmanned aircraft system policy developed by the law enforcement agency pursuant to the bill's provisions. The bill would prohibit a law enforcement agency from using an unmanned aircraft system to surveil private property unless, among other justifications, the law enforcement agency obtains a search warrant.*

~~The bill would require reasonable public notice to be provided by public agencies intending to deploy unmanned aircraft systems, as specified. The bill would require a local legislative body that considers approving the use of an unmanned aircraft system by a law enforcement agency to provide an opportunity for public comment before granting approval, and to specify the circumstances under which an unmanned aircraft system may be used and the time limits applicable to each circumstance. The bill would require images, footage, or data obtained through the use of an unmanned aircraft system under these provisions to be permanently destroyed within one year, except as specified. The bill would generally prohibit images, footage, or data of private property obtained through the use of an unmanned aircraft system under these provisions from being disseminated outside the collecting public law enforcement agency, except as specified. Unless authorized by federal law, the bill would prohibit a person or entity, including a public agency subject to these provisions, or a person or entity under contract to a public agency, for the purpose of that contract, from equipping or arming an unmanned aircraft system with a weapon or other device that may be carried by, or launched or directed from, an unmanned aircraft system and that is intended to cause incapacitation, bodily injury or death, or~~

damage to, or the destruction of, real or personal property. *By creating a new crime, the bill would impose a state-mandated local program.* The bill would also provide that specified surveillance restrictions on electronic devices apply to the use or operation of an unmanned aircraft system by a public agency.

The bill would make its provisions applicable to all public and private entities when contracting with a public agency for the use of an unmanned aircraft system.

Existing law, the California Public Records Act, requires state and local agencies to make public records available for inspection, subject to certain exceptions.

This bill would make certain images, footage, or data obtained through the use of an unmanned aircraft system under its provisions, or any related record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, subject to disclosure. The bill would except from the disclosure requirements discussed above images, footage, data, and records obtained through the use of an unmanned aircraft system if disclosure would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Because this bill would require local entities to comply with additional rules and requirements regarding the use of information obtained from unmanned aircraft systems, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 6254.31 is added to the Government Code, to read:

6254.31. (a) Notwithstanding any provision of this chapter, images, footage, or data obtained through the use of an unmanned aircraft system pursuant to Title 14 (commencing with Section 14350) of Part 4 of the Penal Code, or any related record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, are public records subject to disclosure.

(b) Notwithstanding subdivision (a), nothing in this chapter or any other law requires the disclosure of images, footage, or data obtained through the use of an unmanned aircraft system, or any related record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, to the extent that disclosure of the images, footage, data, or records would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation.

SEC. 2. Title 14 (commencing with Section 14350) is added to Part 4 of the Penal Code, to read:

TITLE 14. UNMANNED AIRCRAFT SYSTEMS

14350. (a) A ~~public~~ *law enforcement* agency shall not use an unmanned aircraft system, or contract for the use of an unmanned aircraft system, except as provided in this title. This title shall apply to all public and private entities when contracting with a ~~public~~ *law enforcement* agency for the use of an unmanned aircraft system.

(b) A law enforcement agency may use an unmanned aircraft system if the law enforcement agency complies with all of the following:

(1) Protections against unreasonable searches guaranteed by the United States Constitution and the California Constitution.

(2) Federal law applicable to the use of an unmanned aircraft system by an agency, including, but not limited to, regulations of the Federal Aviation Administration.

1 (3) State *and local* law applicable to any agency's use of
2 surveillance technology that can be attached to an unmanned
3 aircraft system, including, but not limited to, Chapter 1.5
4 (commencing with Section 630) of Title 15 of Part 1.

5 ~~(4) The law enforcement agency shall obtain prior approval~~
6 ~~from the legislative body having management and control of the~~
7 ~~agency.~~

8 ~~(5)~~

9 (4) If the use of an unmanned aircraft system by a local law
10 enforcement agency may involve the ~~systematic~~ collection of
11 images from an adjacent county, city, or city and county, the law
12 enforcement agency shall obtain ~~approval from the local legislative~~
13 ~~body of that county, city, or city and county.~~ *a warrant based on*
14 *probable cause.*

15 ~~(6)~~

16 (5) (A) The *law enforcement* agency ~~shall develop~~ *develops*
17 ~~and make~~ *makes* available to the public a policy on the use of an
18 unmanned aircraft system and ~~shall train~~ *trains* the law enforcement
19 agency's officers and employees on the policy, prior to the use of
20 the unmanned aircraft system.

21 ~~(e) (1) A local legislative body that considers approving the~~
22 ~~use of an unmanned aircraft system for use by a law enforcement~~
23 ~~agency to gather information pursuant to this section shall provide~~
24 ~~an opportunity for public comment at a regularly scheduled public~~
25 ~~meeting of the body before granting approval.~~

26 ~~(2) The approval granted by a local legislative body pursuant~~
27 ~~to this section shall specify, at a minimum, the circumstances under~~
28 ~~which an unmanned aircraft system may be used and the time~~
29 ~~limits applicable to each circumstance.~~

30 ~~(d)~~

31 (B) *The law enforcement agency uses the unmanned aircraft*
32 *system consistent with the policy developed pursuant to this*
33 *paragraph.*

34 (C) *Prior to finalizing the policy required by this paragraph,*
35 *the law enforcement agency shall provide an opportunity for public*
36 *comment at a regularly scheduled public meeting of its governing*
37 *body.*

38 (D) *The policy required by this paragraph shall specify, at a*
39 *minimum, the circumstances under which an unmanned aircraft*

1 *system may be used and the time limits applicable to each*
2 *circumstance.*

3 (c) A law enforcement agency shall not use an unmanned aircraft
4 system to surveil private property unless the law enforcement
5 agency complies with subdivision (b) and has obtained either of
6 the following:

7 (1) A search warrant based on probable cause.

8 (2) The express permission of the person or entity with the legal
9 authority to ~~grant access to~~ *authorize a search of* the specific
10 private property to be subjected to surveillance.

11 (e)

12 (d) Notwithstanding subdivision ~~(d)~~, (c), a law enforcement
13 agency may use an unmanned aircraft system to surveil private
14 property if an exigent circumstance exists, including, but not
15 limited to, ~~one~~ *either* of the following circumstances:

16 (1) In emergency situations if there is an imminent threat to life
17 or of great bodily harm, including, but not limited to, fires, hostage
18 crises, *barricaded suspects*, “hot pursuit” situations if reasonably
19 necessary to prevent harm to law enforcement officers or others,
20 and search and rescue operations on land or water.

21 ~~(2) To assess the necessity of first responders and process scenes~~
22 ~~in situations relating to traffic accidents.~~

23 ~~(3) To document traffic collision and crime scenes.~~

24 ~~(4) To inspect state parks and wilderness areas for illegal~~
25 ~~vegetation or fires, regardless of permanent improvements or~~
26 ~~temporary human habitation.~~

27 (5)

28 (2) To determine the appropriate response to an imminent or
29 existing environmental emergency or disaster, including, but not
30 limited to, oils spills or chemical spills.

31 ~~(f) A public agency other than a law enforcement agency may~~
32 ~~use an unmanned aircraft system, or contract for the use of an~~
33 ~~unmanned aircraft system, to achieve the core mission of the~~
34 ~~agency provided that the purpose is unrelated to the gathering of~~
35 ~~criminal intelligence.~~

36 ~~(g) A public agency that is not primarily a law enforcement~~
37 ~~agency, but that employs peace officers or performs functions~~
38 ~~related to criminal investigations, may use an unmanned aircraft~~
39 ~~system without obtaining a warrant to achieve the core mission of~~
40 ~~the agency provided that the purpose is unrelated to the gathering~~

1 of criminal intelligence, and that the images, footage, or data are
2 not used for any purpose other than that for which it was collected.

3 14351. A public agency that uses an unmanned aircraft system,
4 or contracts for the use of an unmanned aircraft system, pursuant
5 to this title shall first provide reasonable notice to the public.
6 Reasonable notice shall, at a minimum, consist of a one-time
7 announcement regarding the agency's intent to deploy unmanned
8 aircraft system technology and a description of the technology's
9 capabilities.

10 14352.

11 14351. (a) (1) (A) Except as permitted by this title, images,
12 footage, or data obtained by a ~~public law enforcement~~ agency, or
13 any entity contracting with a ~~public law enforcement~~ agency, of a
14 private property and pursuant to this title shall not be disseminated
15 to a *another* law enforcement agency unless the law enforcement
16 agency has the permission of the person or entity with the legal
17 authority to ~~grant access to~~ *authorize a search of* the *specific*
18 *private* property or a search warrant for the images, footage, or
19 data based on probable cause pursuant to this code, or the law
20 enforcement agency would not have been required to obtain a
21 warrant to collect the images, footage, or data itself, as specified
22 in Section 14350.

23 (B) A public agency that is not primarily a law enforcement
24 agency, but that employs peace officers or performs functions
25 related to criminal investigations, may disseminate images, footage,
26 or data collected pursuant to Section 14350 if the dissemination
27 is to others within that agency.

28 (2) Except as permitted by this title, images, footage, or data
29 obtained by a public agency, or any entity contracting with a public
30 agency, through the use of an unmanned aircraft system shall not
31 be disseminated outside the collecting public agency, unless one
32 of the following circumstances applies:

33 (A) Images, footage, or data obtained by a public agency through
34 the use of an unmanned aircraft system may be disseminated to
35 another public agency that is not a law enforcement agency if the
36 images, footage, or data are related to the core mission of both
37 public agencies involved in the sending or receiving of the images,
38 footage, or data.

39 (B) Images, footage, or data obtained by a public agency through
40 the use of an unmanned aircraft system may be disseminated

1 outside the collecting public agency if the images, footage, or data
2 are evidence in any claim filed or any pending litigation.

3 (C) Images, footage, or data obtained by a public agency through
4 the use of an unmanned aircraft system may be disseminated to a
5 private entity if both of the following conditions are satisfied:

6 (i) ~~The collecting public agency is not a law enforcement~~
7 ~~agency.~~

8 (ii) ~~The images, footage, or data are related to the core function~~
9 ~~of the collecting public agency.~~

10 (3) ~~A public agency may make available to the public images,~~
11 ~~footage, or data obtained by the public agency through the use of~~
12 ~~an unmanned aircraft system if both of the following conditions~~
13 ~~are satisfied:~~

14 (A) ~~The images, footage, or data do not depict or describe any~~
15 ~~individual or group of individuals, or the activities of any individual~~
16 ~~or group of individuals whose identity or identities can be~~
17 ~~ascertained.~~

18 (B) ~~The disclosure of the images, footage, or data is required~~
19 ~~to fulfill the public agency's statutory or mandatory obligations.~~

20 (b) Except as permitted by this title, images, footage, or data
21 obtained by a *public law enforcement* agency through the use of
22 an unmanned aircraft system shall not be used by the *public law*
23 *enforcement* agency for any purpose other than that for which it
24 was collected.

25 (c) (1) Images, footage, or data obtained through the use of an
26 unmanned aircraft system shall be permanently destroyed within
27 one year, except that a *public law enforcement* agency may retain
28 the images, footage, or data in ~~all~~ *both* of the following
29 circumstances:

30 (A) For training purposes. Images, footage, or data retained for
31 training purposes shall be used only for the education and
32 instruction of a *public law enforcement* agency's employees in
33 matters related to the mission of the *public law enforcement* agency
34 and for no other purpose.

35 (B) For academic research or teaching purposes. Images,
36 footage, or data retained for academic research or teaching purposes
37 shall be used only for the advancement of research and teaching
38 conducted by an academic or research institution and matters
39 related to the mission of the institution and for no other purpose.

1 ~~(C) For purposes of monitoring material assets owned by the~~
2 ~~public agency.~~

3 ~~(D) For environmental, public works, or land use management~~
4 ~~or planning by the public agency.~~

5 (2) Notwithstanding paragraph (1), a ~~public law enforcement~~
6 agency may retain beyond one year images, footage, or data
7 obtained through the use of an unmanned aircraft system in both
8 of the following circumstances:

9 (A) If a search warrant authorized the collection of the images,
10 footage, or data.

11 (B) If the images, footage, or data are evidence in any claim
12 filed or any pending litigation, internal disciplinary proceeding,
13 ~~or enforcement proceeding, proceeding, or criminal investigation.~~

14 ~~14353.~~

15 ~~14352.~~ Unless authorized by federal law, a person or entity,
16 including a ~~public law enforcement~~ agency subject to Section
17 14350 or a person or entity under contract to a ~~public law~~
18 ~~enforcement~~ agency, for the purpose of that contract, shall not
19 equip or arm an unmanned aircraft system with a weapon or other
20 device that may be carried by, or launched or directed from, an
21 unmanned aircraft system and that is intended to cause
22 incapacitation, bodily injury or death, or damage to, or the
23 destruction of, real or personal property.

24 ~~14354.~~

25 ~~14353.~~ All unmanned aircraft systems shall be operated so as
26 to minimize the collection of images, footage, or data of persons,
27 places, or things not specified with particularity in the warrant
28 authorizing the use of an unmanned aircraft system, or, if no
29 warrant was obtained, for purposes unrelated to the justification
30 for the operation.

31 ~~14355.~~

32 ~~14354.~~ (a) This title is not intended to conflict with or
33 supersede federal law, including rules and regulations of the
34 Federal Aviation Administration.

35 (b) A local legislative body may adopt more restrictive policies
36 on the acquisition, use, or retention of unmanned aircraft systems.

37 ~~14356.~~

38 ~~14355.~~ For the purposes of this title, the following definitions
39 shall apply:

1 (a) “Criminal intelligence” means information compiled,
2 analyzed, or disseminated in an effort to anticipate, prevent,
3 monitor, or investigate criminal activity.

4 (b) “Law enforcement agency” means the Attorney General of
5 the State of California, *General*, each district attorney, and each
6 agency of the State of California *state or political subdivision of*
7 *the state* authorized by statute to investigate or prosecute law
8 violators.

9 ~~(c) “Public agency” means and includes each state agency and~~
10 ~~each local agency.~~

11 ~~(d)~~
12 (c) “Unmanned aircraft system” means an unmanned aircraft
13 and associated elements, including communication links and the
14 components that control the unmanned aircraft, that are required
15 for the pilot in command to operate safely and efficiently in the
16 national airspace system.

17 ~~14357.~~

18 14356. Except as provided in this title, the surveillance
19 restrictions on electronic devices described in Chapter 1.5
20 (commencing with Section 630) of Title 15 of Part 1 shall apply
21 to the use or operation of an unmanned aircraft system by a public
22 agency.

23 SEC. 3. The Legislature finds and declares that Section 1 of
24 this act, which adds Section 6254.31 of the Government Code,
25 imposes a limitation on the public’s right of access to the meetings
26 of public bodies or the writings of public officials and agencies
27 within the meaning of Section 3 of Article I of the California
28 Constitution. Pursuant to that constitutional provision, the
29 Legislature makes the following findings to demonstrate the interest
30 protected by this limitation and the need for protecting that interest:

31 In order to ensure the safety of persons involved in investigations
32 and to preserve the integrity of those investigations, it is necessary
33 that this act take effect.

34 SEC. 4. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district under this act would result *either* from a legislative mandate
38 that is within the scope of paragraph (7) of subdivision (b) of
39 Section 3 of Article I of the California ~~Constitution.~~ *Constitution,*
40 *or because this act creates a new crime or infraction, eliminates*

1 *a crime or infraction, or changes the penalty for a crime or*
2 *infraction, within the meaning of Section 17556 of the Government*
3 *Code, or changes the definition of a crime within the meaning of*
4 *Section 6 of Article XIII B of the California Constitution.*

O